

REMARKS

Claims 1-31 remain for reconsideration. Independent claims 1, 8, 16, and 23 have been amended to include the feature of the audio stream container or audio stream container parameter that specifies the location in the audio stream container where the audio play or record stopped. Support for this may be found, for example, on page 20, lines 18 et seq., of the application as filed. No new matter has been added.

Several rejections have been set forth by the Examiner as follows:

1. Claims 1-6, 8, 11, 14-21, 23, 26, 29, and 30 have been rejected under 35 U.S.C. 102(a) as being anticipated by Cromwell;
2. Claims 1, 8, 12, 16, 23, and 27 stand rejected under 35 U.S.C. 102(a) as being anticipated by Greene;
3. Claims 7 and 22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Cromwell;
4. Claims 9, 10, 24, and 25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Cromwell further in view of U.S. Patent 6,295,342 to Kaminsky; and
5. Claims 13 and 28 stand rejected under 35 U.S.C. 103(a) as being

unpatentable over Cromwell further in view of U.S. Patent 6,049,765 to
Iyengar.

These rejections are respectfully traversed based on the following
discussion.

With regard to the first two rejections, separately based on Cromwell
and Greene, these references were relied upon for substantially showing the
invention as claimed. Both of these references are "Network Working Group"
"Request for Comment" papers from the Internet Society, both generally
directed to Media Gateway Protocols". However, as set forth for example in
the application on page 3, line 20, the Audio Resource Functions (ARF)
commercially available, do not provide sufficient media processing
capabilities. Embodiments of the present invention seek to provide more
advanced capabilities.

One of the features set forth in the original independent claims is
directed to determining a reason as to why the audio play/record was stopped
or terminated.

With regard to Cromwell, the Examiner has relied on portions of page
14 to teach a variety of termination codes. With regard to Greene, the
Examiner has relied on page 14 to teach that a protocol may report to the
Media Gateway (MG) as to reasons for abnormal failure.

As amended, all independent claims now further recite "an audio

container” and “specifying a location in the audio stream container that was being played when the play was terminated” such as recited in claim 23, and similarly in the other independent claims. This of course may facilitate restarting the audio play or record from that point once the reason for the stop has been determined or corrected.

This additional feature does not appear to be taught or suggested by either Cromwell or Greene. MPEP § 2131 mandates that "TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT IN THE CLAIM". Furthermore, the MPEP, citing *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1051, 1053 (Fed. Cir. 1987), states "[t]he identical invention must be shown in as complete detail as is contained in the... claim" (emphasis added).

It is therefore respectfully submitted that the rejections to the claims are improper under Section 102 as neither Cromwell nor Greene anticipate the rejected claims since they do not "teach the identical invention". Further, since this new feature does not appear to be suggested by either Cromwell or Greene, a case of prima facie obviousness under 103(a) has also not been made.

Based on the above discussion with reference to the MPEP guidelines, it is respectfully requested that the rejections based on 35 U.S.C. § 102 be withdrawn.

With regard to the rejections based on Cromwell in view of Kaminsky, the Examiner has relied on Kaminsky to teach “pausing and resuming the

recording process to append the recording to an existing recording”.

However, just as above, neither Kaminsky nor Cromwell teach or suggest the claimed “audio container” and specifying a place in the container where the play/record terminated.

With regard to the rejections based on Cromwell in view of Iyengar, the Examiner relies on Iyengar to teach “detecting and eliminating periods of speech inactivity”

However, again, Iyengar does not teach or suggest the newly claimed feature of the “audio container” and specifying a place in the container where play/record was terminated.

Referring the Examiner now to MPEP § 2143, titled "Basic Requirements for a Prima Facie case of Obviousness", the MPEP mandates that:

"To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claimed limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not

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applicant's disclosure." (emphasis added).

Here, neither Cromwell, nor Greene, nor Kaminsky, nor Iyengar teach or suggest "an audio stream container offset parameter to specify a location in an audio stream container that was being played when the play was terminated," as recited for example in claim 1 and similarly recited in the other independent claims.

Since the above features recited in the claims are not taught or suggested by the prior art of record, it is respectfully requested that the outstanding rejections be withdrawn.

In view of the foregoing, it requested that the application be reconsidered, that claims 1-31 be allowed and that the application be passed to issue. Please charge any shortages and credit any overcharges to Intel's Deposit Account number 50-0221.

Respectfully submitted,

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